

Democratic National Committee [DNC] and the executive branch, I am aware of no such investigation pertaining to Members of Congress, and the Democrats' proposed resolution does not even purport to make such allegations. The independent counsel statute plainly does not authorize the appointment of an independent counsel with jurisdiction to go on an undefined fishing expedition to dig up unspecified violations by Members of Congress.

Second, I can imagine no reason—and my Democrat colleagues have suggested none—why it would be in the public interest to initiate independent counsel proceedings with respect to Members of Congress. The legislative history clearly indicates that there are two instances when independent counsel proceedings are in the public interest under section 591(c)(2). The first is where there would be a real or apparent conflict of interest for the Attorney General to investigate a Member of Congress. While we could imagine that there might be instances in which an Attorney General would have a conflict in investigating Members of Congress of the same party, only in the most extraordinary circumstance would an Attorney General have a conflict in investigating Members of the other party. In any event, we are confident that this Attorney General is fully capable of investigating Members of Congress of both parties.

The third reason for initiating independent counsel proceedings with respect to Members of Congress is when "there is a danger of disparate treatment if the case were handled by the Department of Justice," such that "a Member of Congress were unfairly subjected to a more rigorous application of criminal law than other citizens." This danger, however, clearly does not arise with respect to allegations that laws regulating the fundraising activities of public officials have been violated; if the law only applies to public officials, there is no possibility of disparate treatment between Members of Congress and private citizens. In any event, my colleagues on the other side of the aisle have not even attempted to articulate why there would be a danger of disparate treatment if the Justice Department were to investigate Members of Congress.

In closing, Attorney General Reno has appointed four independent counsels to date. It is the sense of a majority of the members of the Judiciary Committee that the need to avoid even the appearance of a conflict of interest, and thereby to ensure the public's confidence in our system of justice, requires an independent counsel in connection with the 1996 Presidential campaign. However, the record does not warrant, nor does the law permit, the appointment of an independent counsel to investigate Congress. Accordingly, I urge my colleagues to oppose Senate Joint Resolution 23.

The result was announced—yeas 58, nays 41, as follows:

[Rollcall Vote No. 33 Leg.]

YEAS—58

Abraham	Frist	Moynihan
Allard	Gorton	Murkowski
Ashcroft	Gramm	Nickles
Bennett	Grams	Roberts
Bond	Grassley	Roth
Brownback	Gregg	Santorum
Burns	Hagel	Sessions
Campbell	Hatch	Shelby
Chafee	Helms	Smith, Bob
Coats	Hutchinson	Smith, Gordon
Cochran	Hutchison	H.
Collins	Inhofe	Snowe
Coverdell	Jeffords	Specter
Craig	Kempthorne	Stevens
D'Amato	Kyl	Thomas
DeWine	Lott	Thompson
Domenici	Lugar	Thurmond
Enzi	Mack	Warner
Faircloth	McCain	Wellstone
Feingold	McConnell	

NAYS—41

Akaka	Feinstein	Leahy
Baucus	Ford	Levin
Biden	Glenn	Lieberman
Bigman	Graham	Mikulski
Boxer	Harkin	Moseley-Braun
Breaux	Hollings	Murray
Bryan	Inouye	Reed
Bumpers	Johnson	Reid
Byrd	Kennedy	Robb
Cleland	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Torricelli
Dorgan	Landrieu	Wyden
Durbin	Lautenberg	

ANSWERED "PRESENT"—1

Dodd

The motion to lay on the table the joint resolution (S.J. Res. 23) was agreed to.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, it is my understanding that the Senate will be in a period of morning business now, is that correct?

The PRESIDING OFFICER. The Senator is correct.

MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for morning business until 3 o'clock.

CHEMICAL WEAPONS CONVENTION TREATY

Mr. KERRY. Mr. President, I rise for a few moments to speak with respect to the Chemical Weapons Convention treaty. I notice the majority leader is here. I wanted to try to get the majority leader's attention for a moment, if I can. Mr. President, I know that Senator BIDEN, who is the ranking member of the committee, has been in discussions and negotiations with a number of parties, and many of us who have been deeply involved in this issue for a long period of time are growing increasingly concerned.

I raised the subject of the Chemical Weapons Convention on the floor a couple weeks ago and signaled that a great many of us were growing sufficiently concerned that we are running out of legislative time on this important treaty that we were poised to consider

coming to the floor and exercising whatever rights we have as Senators in order to try to guarantee a debate on it. For years, we have been making an effort to pass this convention or to pass a convention that regulates chemical weapons. The United States of America has made a policy decision not to produce them. So we are watching 161 nations who signed off on this, and 68 of whom have ratified it, come together without the United States to set up the protocol that will govern the verification and regulatory process for chemical weapons and their precursors for years to come. If we are not allowed in the U.S. Senate to debate this and have a vote, we will not have performed our constitutional responsibilities.

I know the majority leader—he and I have had a number of conversations on this personally. I would like to begin now at least to ascertain publicly, and on the record, where we may be going so that we don't lose this critical time. I would like to know if the majority leader can guarantee us that we are going to have an opportunity to vote up or down on this convention, or whether we have to begin to be a little more creative.

Mr. LOTT. Mr. President, if the distinguished Senator from Massachusetts will yield, I would be glad to respond.

Mr. KERRY. I yield, without giving up my right to the floor.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. As the Senator from Massachusetts recalls, this issue was reported by the committee in the last Congress, and I made a commitment in connection with other bills that we would bring it to a vote. In fact, I believe it was scheduled for a vote, or we were moving toward a vote. But for a variety of reasons—and there is no use rehashing the history of it—the Secretary of State called and asked that we pull it back and not force it to a vote last year. We honored that request.

This year, there have been a number of discussions. The President did call and ask that we meet with his Director of the NSC, Sandy Berger, to talk about how we could bring it to a conclusion. At his request, I did meet with him, and Senator HELMS met with him. Other Senators that are interested have been talking with the President's representative. And we continue to work on that. I think some good progress has been made as a result of those meetings. Some conditionalities have been more or less agreed to. Of course, until it is final, it is never final. Some have been agreed to, some are still being discussed, and some probably will have to have amendments or votes on them when it comes to the floor of the Senate.

The Senator is absolutely right. We have made a decision to destroy our chemical weapons. That is a fact. We are doing that. He is also right that a number of countries have ratified that